

Exhibit A

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

NINGDE AMPEREX TECHNOLOGY
LIMITED,

Plaintiff,

v.

ZHUHAI COSMX BATTERY CO., LTD.,

Defendant.

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Civil Action No.: 2:22-CV-232

JURY TRIAL DEMANDED

DEFENDANT ZHUHAI COSMX BATTERY CO., LTD.'S
IDENTIFICATION OF INVALIDITY THEORIES

Pursuant to the Court's Third Amended Docket Control Order (Dkt. 279), CosMX identifies the following invalidity theories and prior art references/combinations:¹

- Claim 1 of U.S. Patent 10,833,363 is anticipated by *Zeng* (Patent Application Publication No. CN 106099187 A). See Section VIII.A of the opening expert report of Brett L. Lucht, Ph.D.
- Claim 1 of U.S. Patent 10,833,363 is anticipated by the sale of Samsung S9+ products and the batteries they included. See Section VIII.D of the opening expert report of Brett L. Lucht, Ph.D.
- Claim 1 of U.S. Patent 10,833,363 is anticipated by the DP018 and SW-E7 prior art electrolyte. See Sections VIII.E.1 and VIII.E.2 of the opening expert report of Brett L. Lucht, Ph.D.
- Claims 1 and 17 of U.S. Patent 10,964,987 are anticipated by the sale of CosMX's CA245065HV lithium ion battery cells for use in iPod Touch 6 products. See Section XIII.A of the opening expert report of Brett L. Lucht, Ph.D.
- Claim 1 of U.S. Patent 10,964,987 is anticipated by *Ueki* (U.S. Patent 9,190,668). See Section XII.E of the opening expert report of Brett L. Lucht, Ph.D.
- Claim 1 of U.S. Patent No. 11,329,352 is rendered obvious by *Wang* (Patent Application Publication No. CN 104157914 A) and *Deng* (Patent Application Publication No. CN 101826609 A) in view of the knowledge of one of ordinary skill in the art. See Section XVII.A of the opening expert report of Brett L.

¹ The election of these invalidity theories is based on the assumption that the claims ATL recently dropped from its infringement case will be dismissed with prejudice. To the extent these claims are not dismissed with prejudice, CosMX reserves the right to assert additional invalidity grounds against all claims asserted in ATL's infringement contentions.

Lucht, Ph.D.

CosMX intends to rely on the following equitable defenses to ATL's patent-infringement assertions: patent misuse and unclean hands. In addition, ATL is not able to meet the standards for injunctive relief on its patent claims.

DATED: January 25, 2024

Respectfully submitted,

By: /s/ Jeff C. Totten

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CERTIFICATE OF SERVICE

The undersigned certifies that the foregoing document was filed electronically in compliance with Local Rule CV-5(a). Plaintiff/Counter-Defendant's counsel of record was served with a true and correct copy of the foregoing document via electronic mail on January 25, 2024.

/s/ Jeff C. Totten
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